

First Proposed Technical Correction:

SECTION #.(a) G.S. 18B-302 reads as rewritten:

"§ 18B-302. Sale to or purchase by underage persons.

- (a) Sale. – It ~~shall be~~ is unlawful for any person ~~to~~ to do any of the following:
- (1) Sell malt beverages or unfortified wine to anyone less than 21 years ~~old; or old.~~
 - (2) Sell fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.
- (a1) Give. – It ~~shall be~~ is unlawful for any person ~~to~~ to do any of the following:
- (1) Give malt beverages or unfortified wine to anyone less than 21 years ~~old; or old.~~
 - (2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.
- (b) Purchase, Possession, or Consumption. – It ~~shall be~~ is unlawful ~~for~~ for a person less than 21 years old to do any of the following:
- (1) ~~A person less than 21 years old to purchase, to~~ Purchase, attempt to purchase, or to possess malt beverages or unfortified wine; or wine.
 - (2) ~~A person less than 21 years old to purchase, to~~ Purchase, attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed beverages; or beverages.
 - (3) ~~A person less than 21 years old to consume~~ Consume any alcoholic beverage.
- (c) Aider and ~~Abettor.~~ Abettor. –
- (1) By Underage Person. – Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section ~~shall be~~ is guilty of a Class 2 misdemeanor.
 - (2) By Person over Lawful Age. – Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section ~~shall be~~ is guilty of a Class 1 misdemeanor.
- (d) Defense. – It ~~shall be~~ is a defense to a violation of subsection (a) of this section if the ~~seller;~~ seller does any of the following:
- (1) Shows that the purchaser produced a driver's license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing ~~his~~ the purchaser's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the ~~purchaser; or purchaser.~~
 - (2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.
 - (3) Shows that at the time of purchase, the purchaser utilized a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the document.
- (e) Fraudulent Use of Identification. – It ~~shall be~~ is unlawful for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to purchase alcoholic

beverages, in violation of subsection (b) of this section, by using or attempting to use any of the following:

- (1) A fraudulent or altered drivers license.
- (2) A fraudulent or altered identification document other than a drivers license.
- (3) A drivers license issued to another person.
- (4) An identification document other than a drivers license issued to another person.
- (5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section.

➡ (f) Allowing Use of Identification. – It ~~shall be~~ is unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.

(g) Conviction Report Sent to Division of Motor Vehicles. – The court shall file a conviction report with the Division of Motor Vehicles indicating the name of the person convicted and any other information requested by the Division if the person is convicted of any of the following:

- (1) A violation of subsection (e) or (f) of this section.
- (2) A violation of subsection (c) of this section.
- (3) A violation of subsection (b) of this section, if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.
- (4) A violation of subsection (a1) of this section.

Upon receipt of a conviction report, the Division shall revoke the person's license as required by G.S. 20-17.3.

➡ (h) Handling in Course of Employment. – Nothing in this section ~~shall be construed to prohibit~~ prohibits an underage person from selling, transporting, ~~possessing~~ possessing, or dispensing alcoholic beverages in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes and Commission rules.

(i) Purchase, Possession, or Consumption by 19 or 20-Year Old. – A violation of subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a Class 3 misdemeanor.

(j) Notwithstanding any other provisions of law, a law enforcement officer may require any person the officer has probable cause to believe is under age 21 and has consumed alcohol to submit to an alcohol screening test using a device approved by the Department of Health and Human Services. The results of any screening device administered in accordance with the rules of the Department of Health and Human Services ~~shall be~~ are admissible in any court or administrative proceeding. A refusal to submit to an alcohol screening test ~~shall be~~ is admissible in any court or administrative proceeding.

➡ (k) Notwithstanding the provisions in this section, it ~~shall be~~ is not unlawful for a person less than 21 years old to consume unfortified wine or fortified wine during participation in an exempted activity under G.S. 18B-103(4), (8), or (11). (1933, c. 216, s. 8; 1959, c. 745, s. 1; 1967, c. 222, s. 3; 1969, c. 998; 1971, c. 872, s. 1; 1973, c. 27; 1977, 2nd Sess., c. 1138, s. 2; 1979, c. 683, s. 2; 1981, c. 412, s. 2; c. 747, ss. 40, 41; 1983, c. 435, ss. 32, 35; c. 740, ss. 1, 2; Ex. Sess., c. 5; 1985, c. 141, ss. 2-3; 1993, c. 539, s. 311; 1994, Ex. Sess., c. 24, s. 14(c); 1999-406, s. 7; 2001-461, ss. 2, 3; 2001-487, s. 42(b); 2005-350, s. 6(a); 2006-253, s. 26; 2007-537, s. 1; 2015-264, s. 7.)"

Explanation:

In addition to other clean-up changes, this technical correction would modernize the format of lists, and in doing so, correct two misplaced uses of "or" brought to our attention by Walker Reagan, Rulemaking Coordinator for the NC Alcoholic Beverage Commission (and former Director of the Legislative Analysis Division of the General Assembly).

Second Proposed Technical Correction:

SECTION #.(b) G.S. 18B-900 reads as rewritten:

"§ 18B-900. Qualifications for permit.

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

- (1) Be at least 21 years old.
~~selling only malt beverages and unfortified wine,~~
- (2) Be a resident of North ~~Carolina unless:~~ Carolina, unless any of the following apply:
 - a. ~~He~~ The person is an officer, ~~director~~ director, or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the ~~business; or~~ business.
 - b. ~~He~~ The person has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are ~~sought; or~~ sought.
 - c. ~~He~~ The person is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative permit.
- (3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, ~~has~~ have had his or her citizenship restored.
- (4) Not have been convicted of an alcoholic beverage offense within two years.
- (5) Not have been convicted of a misdemeanor controlled substance offense within two years.
- (6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).
- (7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him or her in an action under Article 1A of this Chapter.
- (8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:
 - a. Special occasion permit under G.S. 18B-1001(8).
 - b. Limited special occasion permit under G.S. 18B-1001(9).
 - c. Special one-time permit under G.S. 18B-1002.
 - d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or ~~(5).~~ (5) of this subsection.

(b) Definition of Conviction. – A person has been "convicted" for the purposes of subsection (a) when ~~he~~ the person has been found guilty, or has entered a plea of guilty or nolo contendere, and judgment has been entered against ~~him~~ the person. A felony conviction in another jurisdiction ~~shall disqualify~~ disqualifies a person from being eligible to receive or hold an ABC permit if ~~his~~ the conduct would also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or misdemeanor drug offense in another jurisdiction ~~shall disqualify~~ disqualifies a person from being eligible to receive or hold an ABC permit if ~~his~~ the conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been entered under the same circumstances. Revocation of a permit in another jurisdiction ~~shall disqualify~~ disqualifies a person if ~~his~~ the conduct would be grounds for revocation in North Carolina.

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection ~~(a)~~ (a) of this section:

- (1) The owner of a sole proprietorship.
- (2) Each member of a firm, ~~association~~ association, or general partnership.
- (2a) Each general partner in a limited partnership.
- (2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability company.
- (3) Each officer, ~~director~~ director, and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to ~~such an~~ the officer, director, or stockholder unless he or she is a manager or is otherwise responsible for the day-to-day operation of the business.
- (4) The manager of an establishment operated by a corporation.
- (5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.
- (6) Any manager or person otherwise responsible for the day-to-day operation of the business, if none of the persons listed in subdivisions (1) through (5) of this subsection are a manager or person otherwise responsible for the day-to-day operation of the business.

(d) Manager of Off-Premises Establishment. – Although ~~he~~ the ~~manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine is not otherwise required to meet the requirements of this section, the manager of an establishment operated by a corporation and holding off premises permits for malt beverages, unfortified wine, or fortified wine shall~~ must be at least 19 years old and ~~shall~~ must meet the requirements of subdivisions (3), (4), (5) and (6) of subsection ~~(a)~~ (a) of this section.

(e) Convention Centers. – With the approval of the Commission, the manager of a convention center may contract with another person to provide food and beverages at conventions and banquets at the convention center, and that person may engage in the activities authorized by the convention center's permit, under conditions set by the Commission. The person with whom the convention center contracts must meet the qualifications of this section.

(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the

Commission that a person is not in compliance, then the Commission ~~may~~shall not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section. (1949, c. 974, ss. 1, 2; 1963, c. 119; c. 426, s. 12; 1965, c. 326; 1971, c. 872, s. 1; 1973, c. 758, s. 2; c. 1012; 1975, c. 19, s. 5; 1977, c. 70, s. 19.1; c. 668, s. 3; c. 977, ss. 1, 2; 1979, c. 286, s. 4; 1981, c. 412, s. 2; c. 747, ss. 53, 54; 1981 (Reg. Sess., 1982), c. 1262, ss. 13, 14; 1983, c. 435, ss. 32, 39; 1987, c. 136, ss. 7, 8; 1993, c. 415, s. 10; 1995, c. 466, s. 6; 2004-203, s. 25(a); 2014-3, s. 10.1(a); 2019-49, s. 2.)"

[SECTION #.(c) Subsection (a) of this section becomes effective December 1, 2021, and applies to offenses committed on or after that date. The remainder of this section is effective when it becomes law.]

Explanation:

This technical correction was also brought to our attention by Walker Reagan, Rulemaking Coordinator for the NC Alcoholic Beverage Commission. In addition to other clean-up changes, it would remove nonsensical language in G.S. 18B-900 that should have been stricken when the statute was last amended. S.L. 2019-49 last amended G.S. 18B-900(a)(1), but failed to set out some of the language in the statute. As a result, that language was not stricken, and now exists in the amended statute as nonsensical "garbage language" ("selling only malt beverages and unfortified wine,"). This correction also modernizes the format of a list, and in doing so, removes a misplaced "or."

Background Information:

Prior to its amendment in Section 2 of S.L. 2019-49, G.S. 18B-900(a)(1) read as follows:

"(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

- (1) Be at least 21 years old, unless the person is a manager of a business selling only malt beverages and unfortified wine, in which case the person shall be at least 19 years old."

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2019

SESSION LAW 2019-49

SENATE BILL 11

AN ACT TO STRENGTHEN THE PERMITTING ENFORCEMENT AUTHORITY OF THE ABC COMMISSION AND TO MAKE OTHER CHANGES TO THE ABC LAWS.

The General Assembly of North Carolina enacts:

...

SECTION 2. G.S. 18B-900 reads as rewritten:
"§ 18B-900. Qualifications for permit.

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

- (1) Be at least 21 years old, unless the person is a manager of a business in which case the person shall be at least 19 years old.

...

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection (a):

- (1) The owner of a sole ~~proprietorship~~; proprietorship.
- (2) Each member of a firm, association or general ~~partnership~~; partnership.
- (2a) Each general partner in a limited ~~partnership~~; partnership.
- (2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability ~~company~~; company.
- (3) Each officer, director and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to such an officer, director, or stockholder unless he or she is a manager or is otherwise responsible for the day-to-day operation of the ~~business~~; business.
- (4) The manager of an establishment operated by a ~~corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine permits~~; corporation.
- (5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.
- (6) Any manager or person otherwise responsible for the day-to-day operation of the business, if none of the persons listed in subdivisions (1) through (5) of this subsection are a manager or person otherwise responsible for the day-to-day operation of the business.

...."

....

SECTION 10. Section 1 of this act becomes effective October 1, 2019. Sections 2, 5, and 6 of this act are effective when they become law and apply to new permits issued on or after that date. Permits issued to private clubs as defined in G.S. 18B-1000(5) prior to the effective date of this act shall be grandfathered and may remain in effect and eligible for renewal as a private bar under G.S. 18B-1005(4a) or a private club under G.S. 18B-1005(5), as applicable, notwithstanding Section 5 of this act. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June, 2019.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

5/03/2021

s/ Roy Cooper
Governor

Approved 1:32 p.m. this 26th day of June, 2019